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UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

ANTONIO S. CAMACHO,
Plaintiff-Appellee,

vs.

COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,
MARIANAS PUBLIC LANDS
AUTHORITY,* successor to the Marianas
Public Lands Corp., and DEPARTMENT
OF PUBLIC WORKS,

Defendant-Appellants.

CIVIL ACTION NO. 05-0043

**CERTIFICATION UNDER
NINTH CIRCUIT RULE 10-3.1(d)
AND MOTION FOR APPELLEE
TO PAY FOR PORTIONS OF
TRANSCRIPT**

Hearing: Thursday, 5 April 2007
Time: 9:00 a.m.
Judge Hon. Alex R. Munson

* Under N. Mar. I. Public Law 15-2, Section 101 (Feb. 22, 2006), available at
http://www.cnmilaw.org/pdf/public_laws/15/pl15-02.pdf, most powers and duties assigned
to the former Marianas Public Land Authority were assigned to its successor in interest,
the Department of Public Lands (DPL). See Fed. R. Civ. P. 25(c) ("action may be
continued by or against the original party, unless the court upon motion directs the person
to whom the interest is transferred to be substituted in the action").

1 **COME NOW DEFENDANT-APPELLANTS** Commonwealth of the Northern
2 Mariana Islands (CNMI); the former Marianas Public Lands Authority (MPLA) through its
3 successor in interest, the Department of Public Lands (DPL); and the Department of Public
4 Works (DPW), and hereby certify under Ninth Circuit Rule 10-3.1(d) that the portions of
5 the transcript designated by Plaintiff-Appellee Antonio S. Camacho are unnecessary.

6 Accordingly, Defendant-Appellants move pursuant to Ninth Circuit Rule 10-3.1(f)
7 and Local Rule 71.(b) that Plaintiff-Appellee Camacho pay for those unnecessary portions
8 of the transcript he insists on including in the record.

9 In their docketing statement served on Plaintiff-Appellee Camacho, Defendant-
10 Appellants set forth a statement of issues the they intend to raise on appeal, see Ninth
11 Circuit Rule 10-3.1(a), as follows:

12
13 **“Lack of federal question jurisdiction; order granting Plaintiff's motion**
14 **in limine excluding evidence.”**
15

16 Accordingly, the Defendant-Appellants designated the argument on the Motion in Limine
17 excluding evidence (where federal question jurisdiction was also addressed) and colloquy
18 concerning jury instructions — the latter of which the Court Reporter states was all
19 in chambers with no court record to transcribe.

20 Plaintiff-Appellee Antonio S. Camacho has designated for transcription the
21 testimony of (1) himself, (2) defense appraiser Mitch Aaron, and (3) defense agency
22 DPL Deputy Secretary Ramon Salas.

23 None of this testimony is necessary to the principal issues on appeal identified in the
24 docketing statement. Whether or not there is federal question jurisdiction is a matter of
25 law, and the facts pertaining to the value of Plaintiff-Appellee's property have nothing to

1 do with whether this type of case was properly before the Court. Likewise, whether the
2 transcript of the administrative hearing below, tapes from that hearing, or testimony of the
3 hearing officer should have been admitted into evidence is a pure question of law and was
4 decided by the Court as such. The portions of the record Plaintiff-Appellee seek to have
5 transcribed have no bearing on these issues.

6 Indeed, this honorable Court ruled on the Motion in Limine and jurisdictional
7 objection prior to having any of this testimony available, and thus did not rely upon it.

8 As a matter of law, the transcript portions sought by Plaintiff-Appellee are
9 “unnecessary” to resolution of the principal issues on appeal. Accordingly, if he wishes to
10 include them in the transcript designation, as is his right, the Court should order that he pay
11 for those portions of the transcript. See Ninth Circuit Rule 10-3.1(f). Of course, those
12 costs could ultimately be taxed in favor of the prevailing party on appeal, but since they
13 are “unnecessary” to the decision of the discrete issues being appealed, in the first instance
14 Plaintiff-Appellee should pay for these transcripts that he wishes transcribed.

15
16 Respectfully submitted,

17 OFFICE OF THE ATTORNEY GENERAL

18 MATTHEW T. GREGORY # F0205
19 Attorney General

20 Dated: Friday, 9 March 2007.

Gregory Baka
21 GREGORY BAKA # F0199
22 Deputy Attorney General

23 Attorneys for Defendant-Appellants CNMI,
24 former MPLA (DPL), and DPW
25

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(d), the undersigned declarant states as follows:

1. I am eighteen years of age or older, and I certify that I caused to be served the following document(s) to the last known address(es) listed below on the date(s) indicated.

**CERTIFICATION UNDER NINTH CIRCUIT RULE 10-3.1(d)
AND MOTION FOR APPELLEE TO PAY FOR PORTIONS OF
TRANSCRIPT; CERTIFICATE OF SERVICE**

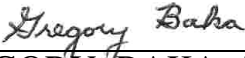
2. As set forth below, this service was accomplished either by personal delivery; U.S. Mail; deposit with the Clerk of Court (in attorney's box), cf. Fed. R. Civ. P. 5(b)(2)(D); or electronic service, see Local Rule 5.1.

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Via Electronic Service

3. I declare under penalty of perjury that the foregoing is true and correct. Executed on Friday, 9 March 2007.



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former MPLA (DPL), and DPW